

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JASMINE PERKINS, AN INDIVIDUAL,	)	CASE NO. 4:22-cv-00073
	)	
Plaintiff,	)	
	)	
v.	)	<b>NOTICE OF REMOVAL</b>
	)	
OTIS ELEVATOR COMPANY, A NEW	)	
JERSEY CORPORATION; LIBERTY	)	
MUTUAL PLANO LLC, A TEXAS	)	
CORPORATION,	)	
Defendant.		

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and Local Rule CV-81, Defendant Otis Elevator Company (“Otis”), hereby removes the above-captioned matter from the District Court of Denton County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division. In support of this Notice of Removal, Otis states as follows:

**THE REMOVED CASE**

1. On or about November 30, 2021, Plaintiff Jasmine Perkins (“Plaintiff”) filed a Petition (“Petition”) captioned *Jasmine Perkins, an individual v. Otis Elevator Company, a New Jersey Corporation; Liberty Mutual Plano LLC, a Texas Corporation*, Cause No. 21-10584-442, in the 442nd Judicial District Court of Denton County, Texas. (See Petition, attached hereto as part of **Exhibit A**.) The Petition alleges that Otis is liable for injuries Plaintiff sustained while riding an elevator on December 2, 2019. (Petition at §§ V, VI, and VII.)

2. Otis does not waive any defenses by filing this Notice of Removal.

**PAPERS AND INFORMATION FROM REMOVED ACTION**

3. As required by 28 U.S.C. § 1446(a), attached as **Exhibit A** are copies of the Petition

and Citation served upon Otis through its registered agent. The state court has not entered any orders.

4. As required by Local Rule CV-81(1), Otis identifies the following parties and their party types: Jasmine Perkins (Plaintiff); Otis Elevator Company (Defendant); and Liberty Mutual Plano LLC (Defendant). As also required by Local Rule CV-81(1), Otis states that the removed action is currently pending.

5. As required by Local Rule CV-81(2), attached as **Exhibit B** is a civil cover sheet.

6. As required by Local Rule CV-81(2), attached as **Exhibit C** is a certified copy of the state court docket sheet.

7. As required by Local Rule CV-81(3), Otis identifies the following attorneys involved in the action and their respective bar numbers, addresses, telephone numbers, and parties represented. Counsel for Liberty Mutual Plano, LLC, has not yet appeared.

Counsel for Jasmine Perkins

Darren T. McBratney  
Texas Bar No. 24034560  
Downtown L.A. Law Group  
601 N. Vermont Ave.  
Los Angeles, CA 90004  
Telephone: 213-389-3765

Counsel for Otis

Christopher Staine  
Texas Bar No. 24104576  
Crowe & Dunlevy  
225 McKinnon Street, Suite 425  
Dallas, Texas 75201  
Telephone: 214-420-2143

8. As required by Local Rule CV-81(4), Otis states that Plaintiff's Petition requests a

jury trial.

9. As required by Local Rule CV-81(5), Otis states that the action is being removed from the 442nd Judicial District Court of Denton County, Texas, 1450 E. McKinney Street, 1<sup>st</sup> Floor, Denton, TX 76209.

**REMOVAL IS TIMELY**

10. Otis was served through its registered agent on January 5, 2022, and received the Petition and Citation on the same date. “When service is effected on a statutory agent, the removal period begins when the defendant actually receives the process and not when the statutory agent receives process.” *McCrary v. Kansas City S. R.R.*, 121 F. Supp. 2d 566, 570 (E.D. Tex. 2000). Accordingly, this Notice of Removal is being filed within 30 days of receipt of an initial pleading setting forth the claims for relief upon which such action is based and, therefore, is timely under 28 U.S.C. § 1446(b).

**THE VENUE REQUIREMENT IS MET**

11. The District Court of Denton County, Texas is located within the Eastern District of Texas, Sherman Division. 28 U.S.C. § 124(c)(2). Venue is thus proper because this is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

**DIVERSITY OF CITIZENSHIP EXISTS**

12. This is a civil action that falls under the Court’s original jurisdiction under 28 U.S.C. § 1332 (diversity of citizenship) and is one that may be removed to this Court based on 28 U.S.C. §§ 1441 and 1446.

13. Upon information and belief, Jasmine Perkins is, and was when she filed the Petition, a citizen of California. See Petition at ¶ 2.

14. Otis is not, and was not when the action commenced, a citizen of Texas. *See* 28

U.S.C. § 1441(b). Otis is incorporated in New Jersey and has its principal place of business in Connecticut. *See* **Exhibit D**, Restated Certificate of Incorporation; **Exhibit E**, Texas Franchise Tax Public Information Report.

15. Liberty Mutual Plano LLC is a Delaware LLC and has its principal place of business in Massachusetts. Upon information and belief, all of its members are citizens of Massachusetts. *See* **Exhibit F**, Texas Application for Registration of a Foreign LLC.

16. Because Jasmine Perkins is a citizen of California, Otis is a citizen of New Jersey and Connecticut, and Liberty Mutual Plano LLC is a citizen of Massachusetts, diversity of citizenship exists under 28 U.S.C. § 1332.

#### **THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED**

17. Plaintiff's civil case information sheet, filed concurrently with her Petition, makes clear that the amount in controversy exceeds \$75,000.00, exclusive of costs and interest. In this case, Plaintiff seeks monetary damages exceeding \$1,000,000.00. (*See* Civil Case Information Sheet, **Exhibit A** at 9.)

#### **REMOVAL JURISDICTION**

18. This action involves a controversy wholly between citizens of different states and the value of the matter in dispute in said cause exceeds the sum of \$75,000.00, exclusive of interest and costs. Accordingly, this action is one over which the District Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

#### **FILING OF REMOVAL PAPERS**

19. A copy of this Notice of Removal is being served on Jasmine Perkins's counsel and being filed with the 442nd Judicial District Court of Denton County, Texas, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Otis Elevator Company hereby removes the above-captioned matter from the District Court of Denton County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

/s/ Christopher M. Staine

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*Attorney for Defendant, Otis Elevator  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2022, a copy of the foregoing Notice of Removal was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system on all counsel of record and served via U.S. Mail, first-class postage prepaid to:

Darren T. McBratney  
Downtown L.A. Law Group  
601 N. Vermont Ave.  
Los Angeles, CA 90004

/s/ Christopher M. Staine

Christopher M. Staine